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# Appeal Decision

Site visit made on 23 April 2024

**by F Rafiq BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 May 2024**

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**Appeal Ref: APP/P4605/W/23/3328222**

**1 Gatwick Road, Castle Vale, Birmingham B35 6NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Marcus Saltan against the decision of Birmingham City Council.
  - The application Ref is 2023/02850/PA.
  - The development proposed is the erection of a dwellinghouse (Use Class C3).
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Marcus Saltan against Birmingham City Council. This application is the subject of a separate decision.

## Main Issues

3. The main issues are the effect of the proposed development on:
  - highway safety, and
  - the character and appearance of the area.

## Reasons

### *Highway Safety*

4. The proposed parking arrangements to the front of the existing and proposed dwellings on the appeal site would require various highway works. Reference has been made to changes that could be made to re-configure the proposed parking, but I am required to determine the appeal scheme before me.
5. The alterations to the highway as a result of the appeal proposal, would require the removal of a highway sign and the extension to the existing dropped kerb would be in close proximity to an area of tactile paving and a change in highway levels. Although the appellant has set out that the proposal would not affect the performance and safety of the local highway network and the highway works could be delivered through a Section 278 Agreement, no details of the works have been provided. It is necessary to establish that the proposed access would not harm passing pedestrians, or other highway users, despite there not being any recorded personal injury accidents around this Gatwick Road/Turnhouse Road junction. This is particularly so given the area of tactile paving is important for blind or partially sighted pedestrians to safely use the

footway, but also to understand the effect of the wider dropped kerb on road users where the vehicular carriageway changes levels on the approach to a junction.

6. Given the above, I conclude that the appeal development has failed to demonstrate how it would have no unacceptable harmful effect on highway safety. As such, it would be contrary to Policies PG3, TP39 and TP44 of the Birmingham Development Plan (BDP), Policies DM14 and DM15 of the Development Management in Birmingham Development Plan Document, which seek, amongst other matters, development that ensures the safety of highway users is properly considered. It would also conflict with the National Planning Policy Framework (Framework), which sets out at Paragraph 115, that amongst other matters, development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

### *Character and Appearance*

7. The appeal site comprises of a two-storey semi-detached dwelling which has a single storey side extension. The surrounding properties are predominantly two storey and have similar proportions and fenestration arrangements. These features, as well as the presence of wide grass verge areas, low boundary walls, and the setback of properties behind front garden and parking spaces, provide for a spacious and unified residential character.
8. The proposal would be to the side of the existing dwelling, replacing the current single storey structure. Its front elevation would align with the existing dwelling and other neighbouring properties along this section of Gatwick Road. The side of the proposed dwelling would however project past the front elevation of the nearest terrace row to the rear along Turnhouse Road. Unlike Gatwick Road however, the buildings along Turnhouse Road have a stepped appearance, with each successive terrace row being offset in its positioning from the previous terrace.
9. Reference has been made to the existing dwelling, 1 Gatwick Road as well as the dwelling opposite at No. 2 occupying a gateway position. The proposed dwelling, although it would remove elements of symmetry that exist between the appeal site and No. 2, it would not unduly harm the spacious characteristic of the area provided in part by the wide pavement and grass verge area around this junction.
10. The proposal also reflects the design of the existing dwelling at No. 1, in terms of window and door sizes and positions, through the incorporation of a front porch and by providing a continuation of the roof form. Although the proposed dwelling would not have a window above the entrance door like others in the area, given the various extensions and alterations that have taken place on neighbouring properties, I do not consider this small variation on the front elevation would be harmful to the generally unified character that exists in the area.
11. I therefore conclude that the proposal would not have an unacceptable adverse effect on the character and appearance of the area. As such, it would comply with Policy PG3 of the BDP, and the Birmingham Design Guide Principles Document, which seek, amongst other matters high quality design that reinforces or creates a positive sense of place and local distinctiveness. It

would also comply with the National Design Guide and the Framework, which seek development that is sympathetic to local character.

### **Other Matters**

12. Reference has been made to another site on the Turnhouse Road and Lydd Croft Junction, which is said to have a similar arrangement to that proposed by this appeal. From the information available, the parking arrangements appear to be different, with the vehicle parked on the drive at an angle at the referenced property, unlike the parking proposed on the appeal site. The circumstances of this referenced development do not therefore appear to be comparable to this scheme. I can confirm that I have dealt with this appeal based on the evidence before me.
13. The site is not in a Conservation Area or in close proximity to listed buildings, is not subject to any environmental designations and is at low probability of flooding. The proposal would provide an adequate standard of living accommodation for future occupiers and would not have a harmful impact on neighbouring residential occupiers. These are however neutral matters and not ones which weigh in favour of the proposal.
14. Reference has been made to revisions from a previously refused application. I have however dealt with the appeal before me on its own merits.

### **Planning Balance**

15. The Council is unable to demonstrate a 5 year deliverable supply of housing. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. The proposal would have a harmful impact on highway safety which would be long lasting and contrary to the objectives of the Framework. I ascribe this substantial weight.
17. The proposed dwelling would contribute to the housing needs of Birmingham on a site that is accessible to local services and facilities. It would also support employment during the construction phase. However, as the proposed development would provide a single dwelling, it would make a contextually small contribution to the Council's housing supply and the economy.
18. With this in mind, I attach limited weight to the appeal scheme's benefits. As such, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

### **Conclusion**

19. I therefore conclude that the appeal should be dismissed.

*F Rafiq* INSPECTOR